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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,579	11/12/2003	Herbert C. Hilicus SR.	2304.001	6666
23405	7590	09/09/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			GRANT, ALVIN J	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 09/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,579

Applicant(s)

HILICUS, HERBERT C.

Examiner

Alvin J. Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-31 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 3-21 is/are allowed.
- 6) ☒ Claim(s) 22-30 and 34-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 22-29** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 22, 24, 26 and 28 the language as written renders the claims indefinite, because it is unclear whether the claims are dependent or independent. If the claim are independent, i.e., the reference to claims 1, 13, 17 and 21 respectively, renders them indefinite since the scope can not be ascertained, if it is a dependent claim, it fails to further limit the parent claims. It is a different statutory class of invention and should be written in conformance with the standard and form prescribed by the USPTO.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claim 30 and 34-37** are rejected under 35 U.S.C. 102(b) as being anticipated by Williams 4,515,200.

Referring to claim 30, Williams discloses a method of texturizing tread surfaces of a tire, the method comprising; forming a plurality of at least one of slices and grooves about 1/32-inch to about 1/16-inch deep into the tread surfaces of the tire while maintaining the thickness of the tread (column 5, lines 45-50).

Referring to claims 34-37, Williams discloses a method for texturizing tread surfaces of a tire, the method comprising: providing an apparatus for use by an operator for texturizing tread surfaces of a tire (abstract), the apparatus comprising: a stand, a tire mount supported by the stand and releasably attachable to the tire (Fig. 1), a tire rasp (28, 29, 30 and 31), a tire rasp mount attachable to the tire rasp (Fig. 2), a support for pivotally attaching the tire rasp mount to the stand, a driver operably connected to the tire mount and to the tire rasp for rotating said tire mount and the tire rasp; and wherein the operator is able to manually move the tire rasp into contact with the tire and apply pressure between the tire rasp and the tire to texturize tread surfaces of the tire (column, line 62-column 4, line 26); and operating the apparatus to form a plurality of at least one of slices and grooves about 1/32-inch to about 1/16-inch deep circumferentially around portions of the tread surfaces of the tire (column 5, lines 45-50); texturizing means for at least one of slicing and gouging (28, 29, 30 and 31), hub mount means for rotatably supporting the texturizing means; support means for pivotally attaching the texturizing means to the stand so that the texturizing means is movable toward and away from the tread surfaces of the tire, across the tread surfaces of the tire, and around edges of the tread surfaces of the tire; and drive means operably connected to the tire mount means and to the texturizing means for rotating the tire mount means and

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the texturizing means (column 5, lines 5-42); and operating the apparatus to form a plurality of at least one of slices and grooves are about 1/32-inch to about 1/16-inch deep circumferentially around portions of the tread surfaces of the tire; the forming comprises forming a plurality of at least one of slices and grooves using a texturizing hub; and the forming comprises forming a plurality of at least one of slices and grooves using a tire rasp.

Allowable Subject Matter

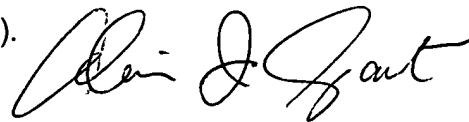
5. **Claims 1 and 3-21** are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Grant whose telephone number is (571) 272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Alvin J. Grant". The signature is fluid and cursive, with the first name "Alvin" and last name "Grant" clearly distinguishable.

Alvin J Grant
Patent Examiner
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ajg